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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,102	01/29/2004	Jene A. Golovchenko	HVD2160	4434
26247	7590 08/24/2006		EXAMINER	
THERESA A LOBER			SINES, BRIAN J	
T.A. LOBER 45 WALDEN	PATENT SERVICES ST		ART UNIT PAPER NUMBER	
CONCORD,	MA 01742		1743	
			DATE MAILED: 08/24/2006	5

Please find below and/or attached an Office communication concerning this application or proceeding.

			2				
- ,	Application No.	Applicant(s)					
	10/767,102	GOLOVCHENKO	ET AL.				
Office Action Summary	Examiner	Art Unit					
	Brian J. Sines	1743					
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the c	orrespondence ac	idress				
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DOWN - Extensions of time may be available under the provisions of 37 CFR 1.11 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period to Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from , cause the application to become ABANDONE	N. nely filed the mailing date of this o D (35 U.S.C. § 133).					
Status							
1) Responsive to communication(s) filed on							
	· action is non-final.						
	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
• • • • • • • • • • • • • • • • • • • •	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims							
4)⊠ Claim(s) <u>1-21</u> is/are pending in the application.							
,	4a) Of the above claim(s) is/are withdrawn from consideration.						
	☐ Claim(s) is/are allowed.						
6) Claim(s) is/are rejected.	·						
7) Claim(s) is/are objected to.							
8) Claim(s) 1-21 are subject to restriction and/or	election requirement.						
Application Papers							
9) The specification is objected to by the Examine	ar .						
10) The drawing(s) filed on is/are: a) acc		Examiner.	•				
Applicant may not request that any objection to the							
Replacement drawing sheet(s) including the correct	- ' '		FR 1.121(d).				
11) The oath or declaration is objected to by the Ex	caminer. Note the attached Office	Action or form P	TO-152.				
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:	priority under 35 U.S.C. § 119(a)-(d) or (f).					
 Certified copies of the priority document 	s have been received.						
2. Certified copies of the priority document	s have been received in Applicati	on No					
3. Copies of the certified copies of the prior	rity documents have been receive	ed in this National	Stage				
application from the International Bureau							
* See the attached detailed Office action for a list	of the certified copies not receive	ed.	•				
Attachment(s)							
1) Notice of References Cited (PTO-892)	4) Interview Summary						
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 	Paper No(s)/Mail Do 5) Notice of Informal F 6) Other:		O-152)				
0.00	- ·						

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Art Unit: 1743

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1 11, drawn to a method for controlling a gap in an electrically conducting solid state structure, classified in class 29, subclass 592.1
- II. Claims 12 21, drawn to a method for controlling a gap between
 electrically conducting electrodes, classified in class 29, subclass 592.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are directed to related control methodologies. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, the inventions have different modes of operation. For example, the methods of each of the inventions do not comprise the same steps.

Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

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The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Sines whose telephone number is (571) 272-1263. The examiner can normally be reached on Monday - Friday (11 AM - 8 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Buan Sim